



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,007	12/04/2003	Richard E. Livesay	01-512.2	7206

719 7590 04/02/2004

CATERPILLAR INC.  
100 N.E. ADAMS STREET  
PATENT DEPT.  
PEORIA, IL 616296490

EXAMINER

PECHHOLD, ALEXANDRA K

ART UNIT	PAPER NUMBER
----------	--------------

3671

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/728,007

**Applicant(s)**

LIVESAY ET AL.

**Examiner**

Alexandra K Pechhold

**Art Unit**

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) \_\_\_\_\_ is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

1. Claim 15 is objected to because of the following informalities: it appears that the applicant's recitation of the location of the elements is erroneous, since the applicant states that the base member has an alignment configuration, which the Examiner deduces is the alignment configuration (66) in Fig. 4. Though this configuration (66) and as described in claim 15 as "two radially extending arms extending radially beyond the diameter of the barrel member" does not appear to be part of the barrel member, and does not appear in Figs. 8-10 which depict the barrel member (112). Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 14, 15, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Averette (US 3,099,191).**

Regarding claim 14, Averette discloses a retainer comprising:

- a cylindrical barrel member, seen as retainer (28) in Figs. 1 and 2, of a predetermined diameter, the retainer (28) being disposed about a central

Art Unit: 3671

axis and having opposite ends with a first end having a threaded bore therein, seen as threaded bore (35), and

- a separate fastening member, seen as bolt (36) in Figs. 1 and 2, having a cylindrical head portion seen as the cylindrical section (36), and a threaded stud portion, seen as the threaded section (46), the threaded section (46) being adapted for threaded engagement with the threaded bore (35) as Figs. 1 and 2 illustrate.

Regarding claim 15, Averette discloses an alignment configuration base portion on the barrel member, seen as the pin (55), which has two radially extending arms extending radially beyond the diameter of the retainer (28) when the stud portion is mounted in the threaded bore, as Fig. 2 illustrates,

Regarding claim 16, the bolt (36) has a tapered portion seen as frusto-conical section (47) in Fig. 1.

Regarding claim 19, Averette discloses that an object of the invention is to provide a unique construction for a sheep foot tamper whereby different types of feet can be attached to the shank of the device (Col 1, lines 29-31). Averette discloses a cylindrical barrel member, seen as retainer (28), inserted into the retainer pocket, seen as cavity (27) in Figs. 1 and 2. The replaceable top, seen as foot (15) is mounted onto the mounting block, seen as shank (14), so that the retainer (28) abuts against the at least one spaced surface of the foot (15), as illustrated in figs. 1 and 2. A separate fastening member is seen as bolt (36) inserted into the annular through hole, and screwed into the threaded bore (35).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Averette (US 3,099,191).**

Regarding claim 17, Averette fails to disclose the retainer (28) including a tapered socket that receives the tapered portion of the bolt. Yet Averette discloses a portion on the stem (43) of the foot (15) that receives the frusto-conical section (47) of bolt (36) as Figs. 1 and 2 illustrate. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the retainer (28) of Averette to have the tapered portion corresponding to the frusto-conical section of the bolt, since Averette already disclosing the mating of corresponding tapered sections between the bolt and foot, and if the tapered portion of the bolt (36) were simply inserted to a greater depth into the retainer (28) the tapered portion (47) of the bolt (36) would correspond to a tapered portion in the retainer (28).

Regarding claims 18 and 20, Averette fails to disclose the bolt having a tool receiving socket in the cylindrical head portion, adapted for receipt of a tool (as recited in applicant's claim 18), or the steps of inserting a tool into a tool receiving socket in the cylindrical head portion of the fastening member and rotating the tool to rotate the fastening member relative to the barrel member (as recited in applicant's claim 20). But

Art Unit: 3671

Averette does state that an object of the invention is to provide a unique construction for a sheep foot tamper whereby different types of feet can be attached to the shank of the device (Col 1, lines 29-31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the bolt of Averette to include a tool receiving socket in the cylindrical head portion, adapted for receipt of a tool, and the steps of inserting a tool and rotating the tool, since Averette states in column 1, lines 29-31 that the invention provides for a sheep foot tamper whereby different types of feet can be attached to the shank of the device. Furthermore, it is commonly known that for bolts to provide this removable feature, a tool is utilized to engage the bolt for removal and application.

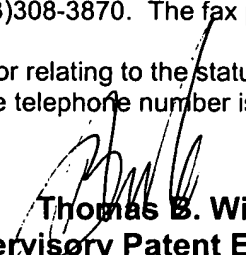
### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexandra Pechhold whose telephone number is (703) 305-0870. The examiner can normally be reached on Mon-Thurs. from 8:00am to 5:30pm and alternating Fridays from 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached on (703)308-3870. The fax phone number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1113.

  
**Thomas B. Will**  
**Supervisory Patent Examiner**  
**Group 3600**

AKP  
3/25/04